

Minutes of the Planning Commission meeting held on Thursday, May 6, 2010, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Jim Harland, Chair
Sheri Van Bibber, Vice-Chair
Tim Taylor
Jeff Evans
Ray Black
Kurtis Aoki
Ray Christensen, Senior Planner
Tim Tingey, Community & Economic Development Director
G.L. Critchfield
Citizens

Excused: Karen Daniels

The Staff Review meeting was held from 6:00 to 6:30 p.m. The Planning Commission members briefly reviewed the applications on the agenda. An audio recording of this is available at the Murray City Community and Economic Development Department office.

Mr. Harland opened the meeting and welcomed those present.

APPROVAL OF MINUTES

Sheri Van Bibber made a motion to approve the minutes as written from April 15, 2010. Seconded by Tim Taylor.

A voice vote was made. The minutes were approved unanimously, 6-0.

CONFLICT OF INTEREST

There were no conflicts of interest related to this agenda. Sheri Van Bibber stated that Chad Woolley is a neighbor and friend of hers but this will not affect her ability to make an impartial decision on item #9, Woolley Subdivision.

APPROVAL OF FINDINGS OF FACT

Tim Taylor made a motion to approve the Findings of Fact for Conditional Use Permits for Expressive Design Academy and Alliance Motors. Seconded by Sheri Van Bibber.

A voice vote was made. The motion passed unanimously, 6-0.

MOUNTAIN MEDICAL – 5323 So Woodrow Street & 129-137 West 5325 South, Project #10-135

Clark Davis was the applicant present to represent this request. This item was continued from the April 15, 2010 Planning Commission meeting, pending meeting parking requirements. Ray Christensen reviewed the location and request for Conditional Use Permit approval for a proposed new building addition to the south side of the existing medical office building and a parking lot expansion. The property addressed 5323 South Woodrow Street is located within the G-O zoning district and the

properties addressed 129-137 West 5325 South are located within the M-G-C zoning district. The building changes have been made in order to meet the parking requirement of 188 stalls. Those changes were eliminating a corner of the south-east portion of the building and the basement storage area has been eliminated. The parking expansion is located to the west to accommodate the building addition. There are two existing homes that will be demolished in order to accommodate the parking lot. Based on the information presented, application materials and site review, staff recommends approval subject to conditions.

Clark Davis, CEO of Mountain Medical Physician Specialists at 5444 South Green Street, stated he is representing this request. Mr. Davis stated he has reviewed the staff recommendation and will comply. Mr. Davis stated that Mountain Medical has made a significant investment in Murray and wish to expand and enhance that investment with this proposal. Mountain Medical employs 180 people and 80% of those employees are located in Murray. They also serve over 600,000 patients each year throughout the valley. This expansion will allow them to grow and serve more patients and to have additional employees. He stated they are committed to be good neighbors and agree with the recommended conditions of approval and will meet or exceed all code requirements. All property issues have been resolved by working with the city attorney.

Kurtis Aoki stated that the ownership issues on the corner property of Woodrow and 5325 South Street need to be resolved with the city. Mr. Davis responded this issue has been resolved with the city.

Sheri Van Bibber asked about the hours of operation and the number of parking stalls to be located on the westerly property. It was indicated that the site plan shows 78 parking stalls on the new proposed parking lot. Mr. Davis responded they are open from 7 a.m. to approximately 5 p.m. and the radiology department is open until about 8 p.m. Mr. Davis stated that there are about 30-40 employees located at this building and many of their employees work at the Intermountain Medical Center and other hospitals throughout the valley. Their employees will park across the street in the expanded parking lot and they are proposing to install additional parking lot lighting.

Sheri Van Bibber expressed concern about the safety for those persons who are parking across the street. Mr. Davis responded that they would be happy to make whatever accommodations are necessary for the safety of those parking in the parking lot across the street such as sidewalks or valet parking, etc.

The meeting was opened to the public.

Wallace James, 77 West 5300 South, asked about the number of parking stalls and if there is adequate parking for the proposed building. He stated he lives adjacent to this business and witnesses the parking lot being full on a daily basis, and he questions the honesty of these people and they have not been honest with the residents in all their past dealings and they are not a great neighbor. He stated that in the past the applicants asked for a variance after the building was under construction.

Ray Christensen stated that the site plan indicates the proposed addition meets the required number of parking stalls which is 188. The site plan has been modified from the previous Planning Commission meeting on April 15, 2010, in order to accommodate the required number of parking stalls. Sheri Van Bibber commented that the number of stalls will be verified upon final inspection and must meet the parking requirements prior to occupancy of the building. This is also one of the required conditions for approval of the Conditional Use Permit.

Ray Black made a motion to grant Conditional Use Permit approval for a building expansion and parking lot expansion for Mountain Medical at 5323 South Woodrow Street and 129-137 West 5325 South subject to the following conditions:

1. The project shall meet all applicable building code standards. Provide stamped and sealed plans from appropriate design professionals including code analysis based on type V-B construction per C.O and fire wall per section IBC sec. 706 may be required
2. The project shall meet all current fire codes.
3. A formal landscaping plan meeting the requirements of Chapter 17.68 of the Murray Municipal Code shall be submitted with the building permit and be approved by the Murray City Forester and installed as approved prior to occupancy of the new addition.
4. All trash containers shall be screened as required by Section 17.76.170. The dumpster location is approved as shown on the plan and shall meet the code requirements.
5. All parking stalls shall be paved and striped, including disabled stalls with signs, to meet zoning and ADA regulations.
6. The City Engineer requires sidewalk, curb and gutter where it doesn't already exist, a drainage plan will be required, and the corner lot property ownership needs to be resolved with the City.
7. Meet all Water and Sewer and Power Dept. requirements

Seconded by Tim Taylor.

Call vote recorded by Ray Christensen.

A _____ Sheri Van Bibber
A _____ Jim Harland
A _____ Tim Taylor
A _____ Ray Black
A _____ Jeff Evans
A _____ Kurtis Aoki

Motion passed, 6-0.

ABSOLUTE MMA – 24 East 6150 South, Project #10-140

Rob Handley was present to represent this request. Ray Christensen reviewed the location and request for Conditional Use Permit approval for a martial arts studio on .30 acre. Municipal Code Ordinance 17.160.030 allows martial arts training within the C-D-C zoning district. The proposal is to use the existing building which was previously used for the Dahle Investments mail order business. The floor plan provided for the building show areas inside for martial arts training, changing rooms, restrooms and a small office. The applicant noted the business will operate in the evening hours Monday-Friday from 5:00 p.m. to 10:00 p.m. Classes for all ages are hourly and range from one person to 25 persons. There are 10 parking stalls shown on the site, including one disable stall, but additional parking is available for the martial arts students at the adjoining parking lot to the south. The same property owner, Dahle Investments, has submitted a letter regarding a shared reciprocal parking agreement that exists between the two properties at 24 East 6150 South and 6170 South state Street. There are adequate parking stalls at the two locations for the business uses. The business to the south is a clothing store and has limited parking needs. Based on the information presented in this report, application materials submitted and the site review, staff recommends approval subject to conditions.

Rob Handley, owner of Absolute Mixed Martial Arts, stated he has been in business for 8 years and has been in this industry most of his life and is a four time national champion in four different disciplines. He stated he is looking to relocate to Murray City in order to have a larger studio. He stated he has a letter from the property owner granting reciprocal parking rights for the two Dahle buildings. He stated he has reviewed the staff recommendations and will comply. Mr. Handley stated the majority of his hours will be between 5 p.m. and 10 p.m. although sometimes he may have a class at 6 a.m. He stated most of his classes average 25 people.

Tim Taylor asked if tournaments will be held at this location. Mr. Handley responded that there will not be any tournaments at this location.

No comments were made by the public.

Sheri Van Bibber made a motion to grant Conditional Use Permit approval for Absolute MMA at 24 East 6150 South subject to the following conditions:

1. The project shall meet all applicable building and fire code standards. The applicant will need to meet requirements of A-3 occupancy. The applicant will need to provide plans that are stamped and sealed by appropriate design professionals and include a code analysis.
2. The project shall meet all current fire codes.
3. Adequate parking stalls will need to be provided for the proposed use with a continuation of the shared parking agreements with Dahle Investments, Ltd for the proposed use.

Seconded by Kurtis Aoki.

Call vote recorded by Ray Christensen.

A _____ Sheri Van Bibber
A _____ Jim Harland
A _____ Tim Taylor
A _____ Ray Black
A _____ Jeff Evans
A _____ Kurtis Aoki

Motion passed, 6-0.

SKIN DEEP – 5 East 4800 South, Project #10-142

Rick Todd was the applicant present to represent this request. Tim Tingey reviewed the location and request for Conditional Use Permit approval for a tattoo and body piercing business. Municipal Code Ordinance 17.160.030 allows a tattoo business within the C-D-C zoning district subject to conditional use permit approval. The applicant is requesting a change of use for the property from a hair salon to a tattoo and body piercing business. On the property are the 5 Monkeys Bar and an office use for the property owners. The applicant stated the business would operate from 8 .am. to 5 p.m. and indicated there will be two artists and two clients at a time and will operate by appointments. The structures were constructed in the early 1960's and the site is nonconforming regarding the on-site parking stalls. The site is currently legal nonconforming regarding parking stalls and the applicant is requesting the commission approve a shared parking usage based on reasonable use standards on a case by case basis. Based on the uses on the site about 54 parking stalls are required. There are about 25 parking stalls shown on the site plan. The 5 Monkeys Bar operates with more customers in the evening hours and there are very few customers in the day time. The tattoo business will need 4 parking stalls during the daytime on the site. Municipal Code 17.72.040 E states: "When parking use intensities vary during the course of the day because of hours of operation or peak time usage, the commission may implement a shared parking usage based upon reasonable use standards on a case by case basis". The property is currently nonconforming and the structure is not being altered or enlarged and the intensity of the use is not greater than the previous use. Additionally, with the difference in hours of operation, and the existing parking currently on the site, staff concludes that the parking will be adequate for this use. The buildings are currently legal nonconforming regarding the setbacks from the public alley streets and also regarding landscaping. The ordinance requires a 10 foot frontage landscaping and 10% of the total site in landscaping. Currently the frontage has about a 2 foot depth of landscaping and about 4% total landscaping on the site. If the required landscaping is installed it would remove a substantial amount of parking. The applicant has applied for a variance to not install the additional landscaping. The additional landscaping would further reduce the number of parking stalls which the property owner would need to account for with the current uses on the site. Based on the information presented in this report, application materials submitted and the site review, staff recommends approval subject to conditions.

Jim Harland asked how many parking stalls would be eliminated if the landscaping was installed. Mr. Tingey responded approximately 12-13 parking stalls would be eliminated with the installation of the frontage landscaping and there are currently 25 parking stalls.

Rick Todd, 3439 Greenmont Circle, West Valley City, stated he is the owner of Skin Deep. Mr. Todd indicated that currently his customers are by appointment only and will be 8 a.m. to 5 p.m. and is a one man operation. He stated that his hours should not conflict with the 5 Monkeys Bar hours of operation. He stated that if he does have overflow parking, the adjacent properties are agreeable to allow him to utilize their parking stalls. The 5 Monkeys Bar hours of operation are 4 p.m. to 2 a.m.

Sheri Van Bibber asked if the conditional use permit goes with the property or the owner. Mr. Tingey responded that Conditional Use Permits go with the property.

Cory Billings, 7871 Manzano Drive, Sandy, stated he owns and operates Club 48 which is located to the west. He stated he has known Rick Todd for the past 5 years and that this proposal for Skin Deep will be an asset to the community. He stated because of the hours of operation there should be no conflict with parking problems.

Mark Gordon, owner of the property in question, stated that he looks forward to working with Rick Todd and feels this tattoo business will be a good business at this location. He stated the hair salon generated more traffic than the proposed tattoo business.

Jim Harland asked Mr. Todd if he has reviewed the staff recommendations and will comply. Mr. Todd responded that he has reviewed the staff recommendations and will comply with the conditions.

Jeff Evans made a motion to grant Conditional Use Permit approval for Skin Deep located at 5 East 4800 South subject to the following conditions:

1. The project shall meet all applicable building code standards.
2. The project shall meet all current fire codes.
3. Landscaping is required per City Code or a variance must be obtained. If the variance is not granted additional parking accommodations will need to be secured by the property owner for the site.
4. Use of a trash container shall be screened as required by Section 17.76.170.
5. Obtain approval from Salt Lake County Health Dept. and a Murray City business license.

Seconded by Sheri Van Bibber.

Call vote recorded by Ray Christensen.

A _____ Sheri Van Bibber

A _____ Jim Harland

A _____ Tim Taylor

A _____ Ray Black

A _____ Jeff Evans

A _____ Kurtis Aoki

Motion passed, 6-0.

IHC/TOSH – 5848 South Fashion Blvd., Project #10-143

Jeff Krantz and Melissa Stanger were the applicants present to represent this request. Ray Christensen reviewed the location and request for Conditional Use Permit approval for detached and directional signs in the hospital zone located at 5848 South Fashion Blvd. Municipal Code Ordinance 17.48.140 allows signs in the H, hospital zoning district, subject to Conditional Use Permit approval by the Planning Commission. The applicant indicated the proposed signs will be desirable to provide a service to the community and for directional and building signs for the IHC/TOSH hospital use. Based on the information presented in this report, application materials submitted and the site review, staff recommends approval subject to conditions.

Jeff Krantz, 4338 Jupiter Drive, Salt Lake City, stated he is representing Young Electric Sign Company for this request. Mr. Krantz stated that this building is a multi-entrance building and it is critical to keep customer and patients coming to the correct entrances and the signage is critical to help with that. He stated most of the signs for this proposal are simply re-facing existing signs and there are several new signs. He stated they are happy to meet the City Engineer's sign relocation for the sign labeled "H" in order to accommodate better visibility in the corner area.

Melissa Stanger, 5770 South Fashion Blvd., stated she is representing the Facilities Management for TOSH. She stated they have made numerous changes to their medical campus and there is a new entrance on the north end of the building, in addition to numerous other modifications, and the proposed signs will help in identifying the entrances and various locations for this campus.

Sheri Van Bibber asked if there will be new directional signs from State Street. Ms. Stanger responded the signs on State Street are not proposed to change at this time.

No comments were made by the public.

Ray Black made a motion to grant Conditional Use Permit approval for attached, detached and directional signs for IHC/TOSH located at 5848 South Fashion Boulevard with the following conditions:

1. The project shall meet all applicable building code standards and permits for signs.
2. The project shall meet all Power Department requirements for signs.
3. The Murray City Engineer will require the sign labeled H on the plans to be relocated west or to the north for the sight distance requirements out of the corner visibility area.

Seconded by Sheri Van Bibber.

Call vote recorded by Ray Christensen.

A _____ Sheri Van Bibber
A _____ Jim Harland
A _____ Tim Taylor
A _____ Ray Black
A _____ Jeff Evans
A _____ Kurtis Aoki

Motion passed, 6-0.

JORDAN MORRELL – 178 East Mountain View Drive, Project #10-144

Jordan Morrell and Rick Arnold were present to represent this request. Tim Tingey reviewed the location and request for Conditional Use Permit approval for an accessory dwelling unit (ADU) for the property addressed 178 East Mountain View Drive. Municipal Code Ordinance 17.78.030 allows approval of an accessory dwelling unit within any single family residential zoning district. The applicant is requesting approval for an ADU in order to allow for an existing non-permitted dwelling unit to remain on the property. In 2008, the Murray Board of Adjustment found that the unit was not-permitted as the property had been zoned exclusively for single-family residential at the time of construction of the second unit. The property owner was notified by City staff that the unit either needed to be abandoned, or a Conditional Use Permit approved. The recently adopted ADU ordinance allows for the approval of a second dwelling unit in a single family residential zone providing the owner resides at the property as their principle residence and meets several design standards. The applicant has provided evidence that he is the owner of the property and that the property is his principle residence. The standards for accessory dwelling units require an additional two off-street parking stalls besides those required for the principal unit and in no case less than 4 spaces. The submitted plan shows adequate space available for off-street parking. The ordinance limits the size of accessory dwelling units to 1,000 square feet or 40 percent of the square footage of the primary structure whichever is less. The plan indicates that the unit is less than 1,000 square feet. The primary residence is 1,556 square feet and the proposed ADU is 544 square feet. Therefore the proposed ADU will be less than 40 percent of the existing square footage. The proposed unit includes 2 bedrooms which is the maximum allowed by the ordinance. The ordinance requires that separate entrances to accessory units be located to the side or rear of the structure to maintain the single family dwelling appearance and character. The entrance for the ADU is located on the west side of the structure. The ordinance prohibits the installation of separate utility meters for accessory dwelling units in order to maintain the single family residential character of neighborhoods. There are currently two power meters and two electrical meters for the units on site. The applicant has requested that the meters be allowed to remain since they currently exist on the site. The accessory dwelling unit ordinance does make allowances for existing nonconforming units that were legally established prior to current zoning. However, based on the previous decision by the Board of Adjustments, the second unit was not legally established and the second meters should have been abandoned at the time of the Board of Adjustments decision in 2008. Staff

recommends that in order to meet the purposes of the ordinance related to preserving single family residential neighborhoods, the second gas and electric meters should be removed as a condition of approval. This will also avoid confusion related to the second unit should the property change ownership in the future.

Jordan Morrell, 178 East Mountain View Drive, stated he currently resides in the rear unit and has been there for 3 years. He introduced his attorney Rick Arnold.

Rick Arnold, Smith Hartvigsen Law Firm, 215 South State Street, Suite 600, Salt Lake City, 84111, stated he is representing Jordan Morrell for this proposal. Mr. Arnold stated that he has reviewed the staff recommendations and wishes to discuss condition #6.

Rick Arnold stated that the ordinance 17.78.040(D): "Installing separate utility meters and separate addresses for the ADU is prohibited." He stated that this property is in place, has been in place and the rear addition was done in 1954. So, for over 50 years this property has been an illegal use, but it has had two dwellings there whether legal or not, they have been there since 1954 and the utilities have been separate for at least that long. New meters were installed by Questar and by Murray City Power in the late 1980's or early 1990's and are up to code and are operating properly. He said the ordinance states "installing separate meters" and doesn't say "remove meters and utilities that are already there", and is an economic detriment to Mr. Morrell to ask him to do this.

Rick Arnold commented that there is no connection between the Board of Adjustment's hearing and appeal decision made in 2008 and the utilities. He stated in 2008 the appeal was regarding whether that use was a duplex or not. This property has been in the family for over 15 years and has been used as a duplex. The nonconforming affidavit documents were submitted to the Board of Adjustment showing that the property had been used as two residences for over 50 years. The appeal to the Board of Adjustment was an effort to get the property recognized as a duplex and it is not a duplex and that is why the Board of Adjustments denied the appeal. He stated the accessory dwelling unit provides Jordan a way to get it recognized and have it used as a multiple unit housing complex, but he doesn't have to go through the requirements of a duplex under the existing zoning. When it comes to the utilities, the ordinance states that installing separate utilities is prohibited. There is nothing in the code that indicates having separate utilities is prohibited. To ask Mr. Morrell to remove the existing utilities after having been there for so long, doesn't make good public policy sense.

Sheri Van Bibber asked if after the appeal in 2008, was the second set of utilities ever turned off. Mr. Arnold responded that the utilities were not turned off. He stated the new ordinance allows for an ADU which is what this application is for and they wish to continue to use the existing two sets of utilities since they have been there for many years.

Jim Harland stated, in his opinion, that the intent of the ordinance implies that dual meters are not allowed.

Tim Taylor asked if he wished to have a second meter on his home, would it be possible. Tim Tingey responded that requests for a second meters are reviewed by the

Community Development office and is not something that we would approve per issues with the code.

Tim Tingey stated the ordinance does include the wording "installing separate utilities, meters and separate addresses" but the intent of the code is to maintain a single family residential character of the neighborhood and recognizing that additional utilities doesn't substantially detract from that but it does give an indication that there is the two units at the property. Part of the reasoning for the condition to remove the second utilities is the Planning Commission can review these sites and per the section of the code, under Conditional Use Permits, the Planning Commission may impose conditions which provides a number of limitations or issues that can be addressed related to size and shape of buildings, utilities, and a variety of other things. He stated the staff is recommending this particular condition because the intent is to maintain that character of a single family dwelling. The Planning Commission may impose conditions based upon these issues and that it is consistent with the intent of the ordinance.

Rick Arnold stated that the plain meaning of this particular ordinance, or any law or ordinance, states "installing separate utility meters and separate addresses for the ADU is prohibited". He stated that Jordan Morrell is not attempting to install separate meters, but that there are meters already on the property and were approved over 50 years ago by a building permit and were done by Murray City and Questar Gas. Mr. Arnold stated the staff reports indicates "Staff recommends that in order to meet the purposes of the ordinance related to preserving single family residential neighborhoods, the second gas and electric meter should be removed as a condition of approval. This will also avoid confusion related to the second unit should the property change ownership in the future." Mr. Arnold stated utility meters are the last thing people pay attention to when walking through a neighborhood. If the concern is to avoid confusion related to the second unit if the property changes hands, they have a property owner affidavit that takes care of this issue. Per the ordinance, the property owner has to sign an affidavit that states "this is not a duplex, this is a single family home with an approved accessory unit" which has to be recorded at the County Records office and any title search would find this document.

Kurtis Aoki asked if the property were to change ownership, would that owner's affidavit continue. Rick Arnold responded that the owner's affidavit would state that there is a conditional use permit on the property and that in order for the conditional use permit to stay in place, at least one of those units has to be lived in by the legal owner of the property and is recorded on title. Mr. Arnold stated that conditions cannot be added to the property title that says it has to be converted back to one unit. There could be a condition that states if Mr. Morrell ever moves the property must be converted back but could not be carried forward because there would be a new owner living on the property. He stated there is no where in the ordinance that says that you have remove the second meter and the ordinance clearly states that installing separate meters is prohibited. Mr. Arnold stated that the second meter was installed with a permit and was done legally, even if the use was not legal. He stated even if the dual use is illegal, that doesn't mean that the utilities are illegal.

Sheri Van Bibber asked when a property is brought into compliance, and someone will be renting the second ADU, how would the utility bills be separated. Kurtis Aoki

responded the utilities would not be separate because it is a single family residence. Tim Tingey stated that ADU's do not allow for separate mailing address, utilities and basically those types of issues would need to be worked out amongst the property owner and the tenant. Mr. Tingey stated related to the purposes of the ordinance, the Planning Commission can place conditions on this approval that would require the property to be brought into compliance with the current code to ensure that the use and the site would adhere to the purposes of a single family zoning district. The intent of the ADU ordinance is to have the single family character preserved. Under the Conditional Use Permit section of the code, the Planning Commission may take all these issues into consideration and in order to meet the intent and purpose of the code, the Planning Commission may impose conditions and that is the recommendation of the planning staff.

Ray Black asked for clarification from the city attorney's office. G.L. Critchfield stated that declaring the meters were installed legally many years ago simply means the city didn't communicate with itself. If the duplex was never established as a legal use, anything associated with that is illegal. Whether the utility companies came and installed meters, as the applicant says "legally", doesn't excuse the fact that it was an illegal use and that everything associated with it would be illegal under the zoning code. He stated that the building code may be an entirely different issue with regard to two meters.

Judy Morrell, 2494 West 3964 South, stated she is the former owner of the property for 15 years and has recently been sold to their son, Jordan Morrell. She stated that the application of the property to be a legal duplex is totally separate from the utilities issue. She stated they spent \$70,000 to substantially remodel the property and enhance the character of the neighborhood in 2007, while still operating as a duplex and was previously owned as a duplex. She stated that having two utility meters does not detract in anyway from the single family character and removing the utilities would create a terrible hardship. She stated they intend to continue renting it and her son is a teacher and the only way he can afford to live here is to rent out the other unit. She stated if the utilities are removed they will be forced to make an agreement with the new tenant regarding the utility bills. She asked the Planning Commission to allow them to continue to have the utilities as they exist and how they have existed for many years. It is highly unfair to make them remove the meters now and the Murray City power meter was replaced shortly before they took out their building permit, but these were replacing the very old meters that have existed for 50 years. It is a hardship to be asked to remove the meters at this point and after they have spent \$70,000 of improvements. She stated there have never been any complaints from the neighbors during the 15 years they owned the property.

Sheri Van Bibber commented that it is difficult to grant approval for this particular situation where others are not allowed the same privilege of having separate meters.

Jeff Evans asked if there is an alternative or compromise in requiring the removal of the second meters and there have not been complaints regarding this property. He stated there are two electrical bills and different accounts and suggested making the two bills into one bill or both bills be in the property owner's name. Mr. Harland responded that the issue is there are two separate meters which is contrary to the ordinance and it is a matter of compliance to the ordinance.

Mr. Evans compared this application to the previous application on this agenda, Skin Deep, that does not meet the code for parking. He stated that the commission approved the Skin Deep application with a shared parking agreement even though the site itself does not meet the parking requirements and this application doesn't meet the single meter requirement. Mr. Evans stated that Huetter Mill property on State Street is another example of noncompliance of properties that the Commission has previously allowed a business to operate.

Kurtis Aoki stated that if the property is sold, it must be brought into code. He asked the cost of removal of the extra meters. Jordan Morrell stated that based on his teachers salary, he would not be able to pay extra costs associated with removal of the secondary meters, and all that may be entailed with that process such as removal of gas lines and this would be a financial hardship for him.

Tim Taylor stated the purpose of the ordinance is not to allow a duplex as an auxiliary unit and it appears that Jordan Morrell wants to continue the duplex use.

Jordan Morrell asked the living difference between an accessory dwelling unit (ADU) and a duplex. Tim Taylor responded the difference is one set of utility meters as opposed to two sets of utilities, plus the square footage limitation of 40% for the ADU. A duplex could be equal to or greater than that square footage, plus the unit would have its own meters.

Mr. Morrell stated while having purchased this property, which has been in his family for 15 years and the previous owners, the legality was never questioned by the city and continued to accept two power bills for many years and did not monitor whether Questar came out and installed a second meter. He asked how these issues are now his responsibility. Mr. Aoki responded the new ADU ordinance is what Mr. Morrell is requesting a conditional use permit approval for and not what happened 50 years ago, or not what happened when the separate meters were installed years ago. The new ordinance states only one set of meters are allowed.

Mr. Morrell asked why he is being asked to clean up the mess that was caused by previous owners many years ago and he was never contacted by the city asking that he remove the second set of meters. Sheri Van Bibber responded when the appeal was denied in 2008 for determination of a legal nonconforming duplex, the property was to be converted back to one set of meters but apparently that was not done. The ADU ordinance was adopted a few months ago and was not in place at the time the Board of Adjustment reviewed the case in 2008.

Tim Tingey stated that when a Conditional Use Permit application is required for a property, it demands extra scrutiny on the property and that extra scrutiny is based on the terms of the ordinance whether it is related to parking, lot size, number of meters, etc. When a Conditional Use Permit application occurs, there is additional scrutiny and standards that are placed as conditions based on the current code and bringing the property up to standard. There are a lot of illegal situations that sometimes the city is not made aware of. This particular situation had a separate power meter installed that was not brought to the attention of the Community Development Department until it was

scrutinized through this process. Mr. Tingey stated that enforcement could have been done as a result of the denial from the Board of Adjustment in 2008 and fines could have been imposed, but was not. He commented that the enforcement officers have more work than they are able to keep up with.

Rick Arnold reiterated that the ADU ordinance prohibits installation of separate utility meters and that his property already has separate meters. He asked if there is an ordinance that allows a single family home to have separate utilities and is prohibited by ordinance. Tim Tingey responded that when the Community Development Department gets applications for a separate utility on a single family dwelling unit, it is not approved because of the zoning standards for a "single family dwelling". He stated the ordinance doesn't specifically say that, but if a request is not meeting the intent of a single family residence it is not approved by the Community Development Department.

Rick Arnold stated in the case of a handy-man who has a detached garage and wishes to install a heater in the garage, a secondary meter would be approved and he has seen these situations all over the valley. He asked if this type of a situation would be denied a secondary meter in Murray City. Jim Harland responded this application is for an ADU and the property must comply with the ADU ordinance in order to receive approval.

Sheri Van Bibber commented that she recently had an addition onto her home and wanted to connect her detached garage to her home but it could not meet the zoning requirements. She was told by other residents to just go ahead and do the addition anyway and no one will know and it is a general feeling amongst citizens that they can do what they wish and won't get caught, which does happen from time to time. This may be a similar situation to the Morrell's property having a second unit and meters.

John Morrell, 2494 West 3965 South, asked why after so many years this property is being scrutinized now after the property was improved by \$70,000 and building permits were taken out for those improvements and the scrutinizing should have been done years ago. He stated there were inspections done on the property with those recent improvements. He stated that he is the one who made application a couple of years ago for determination of the legal nonconforming duplex which ultimately was denied. He stated a building permit was issued in 1956 and has been the same since 1956 with exception of a kitchen being added. He stated there are numerous other violations throughout Murray that are not being scrutinized and it is unjust to treat them the way they are being treated with this application.

Sheri Van Bibber stated the Planning Commission is desirous to have the property be brought into compliance and hasn't been in compliance and that determination was made in 2008 by the Board of Adjustment by application of John Morrell, property owner at that time. Jim Harland stated the issue with the separate utility meters being scrutinized, is a result of the Conditional Use Permit application and, at this point the staff has an obligation to make sure that the application and project meet the criteria of the ordinance in order to grant approval. The ADU ordinance did not exist at the time the Morrell's had their remodel done nor did it exist at the time the Morrell's applied for determination of a legal nonconforming duplex in 2008.

Judy Morrell asked why they are being scrutinized at this time and why it was not done when the building permit was taken out a few years ago, otherwise they wouldn't have spent the \$70,000 for the remodel improvements. Tim Tingey responded in 2008 there was a request for a determination of a legal nonconforming duplex from John Morrell. It was determined by the Community Development Director, Dennis Hamblin, that the duplex was not legal. That decision was appealed to the Board of Adjustment who upheld the decision of Mr. Hamblin and that the property was illegal as two dwelling units. The city code has recently been modified to allow ADU's under a Conditional Use Permit to allow a secondary dwelling and the code was changed to benefit the residents of Murray City as well as the Morrell's. He stated in 2008 the secondary gas meter should have been removed after the determination, but apparently were not. He stated under a Conditional Use Permit application process, the city has the obligation to scrutinize the property for compliance.

Judy Morrell stated they have two other duplexes in Salt Lake City with the same issues such as additions made, separate meters from many years ago and those duplexes have been "grandfathered" in because they weren't illegal and the use was not determined to be illegal. She asked that a compromise be done, or this application be continued, because they are not the only ones who have these types of properties.

Rick Arnold stated there are obviously different interpretations of the ordinance. He stated the ordinance is helpful and allows residents to come into compliance. He stated that he believes this application meets the conditions of the ordinance and they accept conditions 1-5 with exception and objection to condition #6, requiring removal of the secondary meters.

Jeff Evans made a motion to grant Conditional Use Permit approval for an Accessory Dwelling Unit (ADU) for Jordan Morrell at 178 East Mountain View Drive subject to the following conditions, noting that the applicant has an objection to condition #6:

1. The unit shall meet requirements of IRC sec. R 317 (dwelling unit separation). Plans shall be submitted for review and approval within 30 days of planning commission approval and in no case later than June 6, 2010.
2. The project shall meet all applicable building code standards.
3. The project shall meet all current fire codes.
4. Comply with all water and sewer requirements.
5. The applicant has submitted an affidavit stating that they are the owner of the property and that they will live in either the primary or accessory unit as their principal residence. Once the affidavit has been approved by City staff, it shall be recorded against the property. A copy of the recorded affidavit shall be provided to Community and Economic Development Staff by June 6, 2010.
6. The applicant shall remove one set of gas and electric meters by June 6, 2010.

Seconded by Tim Taylor.

Call vote recorded by Ray Christensen.

A _____ Kurtis Aoki
A _____ Ray Black
A _____ Tim Taylor
A _____ Jim Harland
A _____ Jeff Evans
A _____ Sheri Van Bibber

Motion passed, 6-0.

WOOLLEY SUBDIVISION – 331, 341 & 347 East 5300 South, Project #10-145

Chad Woolley and Brian Rose were the applicants present to represent this request. Tim Tingey reviewed the location and request for final subdivision approval and Conditional Use Permit for an infill subdivision on the properties addressed 331, 341 and 347 East 5300 South on 1.34 acre. The subdivision received preliminary approval by the Planning Commission on April 1, 2010. The applicant has revised the drawings to include the elements required in the preliminary approval. The plans now show a standard street intersection in place of the driveway approach previously shown on the plans. Municipal Code Ordinance 16.04.050 requires the subdivision of property to be approved by the Murray City Officials with recommendation from the Planning Commission. Section 17.58.030 authorizes the Planning Commission to approve residential infill subdivisions through a Conditional Use Permit. The properties are located within the R-1-8 zoning district and meet the regulations of Section 17.100. The sidewalk area connects into each of the lots and all of the lots will have access to the sidewalk. Based on the information presented in this report, application materials submitted and the site review, staff recommends approval of the Conditional Use Permit and a positive recommendation be forwarded to the Mayor for signature of the subdivision plat subject to conditions.

Chad Woolley, 347 East 5300 South, stated he owns two of the lots and Brian Rose owns the property addressed 331 East 5300 South. He stated they have reviewed the staff recommendations and will comply.

No comments were made by the public.

Tim Taylor made a motion to grant Conditional Use Permit approval for an infill subdivision for the Woolley Subdivision located at 331, 341 and 347 East 5300 South; and a positive recommendation be forwarded to the Mayor for the final subdivision approval subject to the following conditions:

1. Meet the requirements of the Murray City Engineer for the recording of the plat at the Salt Lake County Records Office.
2. The applicant shall submit all required utility and road construction drawings for review and approval by the City Engineer.

3. The project shall meet all applicable building code standards.
4. The project shall meet all current fire codes.
5. A drainage plan shall be submitted to the City Engineer for review and approval.
6. Ditch company approval is required for the proposed relocation of the ditch.
7. The applicant shall meet all bonding requirements for on-site and off-site improvements.
8. All fencing shall meet applicable zoning ordinance standards.

Seconded by Sheri Van Bibber

Call vote recorded by Ray Christensen.

A _____ Kurtis Aoki
A _____ Ray Black
A _____ Tim Taylor
A _____ Jim Harland
A _____ Jeff Evans
A _____ Sheri Van Bibber

Motion passed, 6-0.

OTHER BUSINESS

There was no other business.

Meeting adjourned.

Tim Tingey
Community & Economic Development Director